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## **INTRODUCTION**

In accordance with the City Auditor's 1995-96 Audit Workplan, this audit reviewed the City of San Jose's traffic citations collection process. We conducted the audit in accordance with generally accepted government auditing standards and limited work to those areas specified in the Scope and Methodology section of the report.

## **BACKGROUND**

### **Traffic Citations Process**

The City of San Jose (City), County of Santa Clara (County), and the State of California (State) share on a predetermined basis the monies generated from traffic tickets issued within the City's limits. The San Jose Police Department (SJPd) and the California Highway Patrol (CHP) enforce traffic regulations and issue citations. These agencies issue citations for traffic infractions such as speeding or running a stop sign, as well as misdemeanor offenses such as reckless driving. Both the SJPd and CHP send their citations for traffic infractions to the Traffic Court Facility (Traffic Court) of the Santa Clara County Municipal Court for processing. In the case of misdemeanor offenses, both the SJPd and CHP send their citations to the Municipal Court for processing and subsequent adjudication. The Court is responsible for collecting monies due from traffic infractions and remitting those monies to the City and the State. In 1994-95, the City received \$764,478 from traffic citations issued under the authority of the State of California Vehicle Code (CVC) and City of San Jose Municipal Code, Title 11.

When an offender fails to pay or clear the citation, the case becomes delinquent and the Traffic Court has the following three options:

1. Impose an additional bail for a CVC 40508(a) violation, or Failure to Appear (FTA) and place a hold on the offender's driver's license.<sup>1</sup>
2. Impose additional bail for FTA, place a hold on the offender's driver's license,<sup>1</sup> and issue a warrant; and

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<sup>1</sup> It should be noted that if the offense is not a Vehicle Code violation or if the citation was not signed by the defendant, the hold option is not available. In those instances, a warrant is issued and bail is not increased.

3. Impose additional bail for failure to pay (FTP), place a hold on the offender's driver's license<sup>1</sup>, and issue a warrant.

In most cases, the Traffic Court exercises option 1. The Traffic Court notifies the State Department of Motor Vehicles (DMV) in order to place a hold on the offender's driver's license.

### **Current Collection Procedures**

The Traffic Court uses the following traffic citation process:

- Traffic Court inputs traffic citation information into its Minor Offenders Automated Computer System (MACS). MACS generates courtesy notices which are sent to offenders notifying them of their options. Offenders can either (1) go to court, (2) go to traffic school, (3) forfeit bail, or (4) present evidence for dismissal. The options available to the offender depend on the citation type.
- If an offender does not take action within 45 days, Traffic Court generates a second notice which gives the offender ten (10) days to answer. It also does the following: (1) places a FTA violation on the citation record, if applicable and may also issue a warrant (2) if a FTA is added, increases the amount due, (3) notifies the DMV, as applicable, and (4) issues a warrant if FTA is not applicable.
- If the offender is eligible for and chooses to attend traffic school, the person sends a fee to Traffic Court, which in turn, sends traffic school information to the offender. At this point, the offender has ten (10) days to register and four (4) months to complete traffic school. If an offender does not complete traffic school on time, bail is forfeited and the violation is recorded on the offender's DMV record.

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<sup>1</sup> It should be noted that if the offense is not a Vehicle Code violation or if the citation was not signed by the defendant, the hold option is not available. In those instances, a warrant is issued and bail is not increased.

- Traffic Court notifies the DMV of the disposition of reportable vehicle code violations and of driver's license holds. The DMV must place a hold when the Traffic Court requests it to do so; however, the DMV ultimately decides whether the driver's license will be held, suspended, or revoked.

In addition, Traffic Court generates arrest warrants on Non-FTA offenses and mandatory appearance violations, notifies the offenders that arrest warrants have been issued, and files arrest warrants at the initiating agency, such as the SJPD. Offenders may clear arrest warrants at the initiating agency. The SJPD sends one notice to defendants who have outstanding arrest warrants. Traffic Court also issues bench warrants for FTA for a scheduled hearing as well as non-payment of court ordered fines. The court can "clear" the case only on receipt of the bail.

#### **Previous City Auditor Report**

In 1991, the City Auditor issued a report on the collection of traffic citations entitled *An Audit of The City's Traffic Citations Collection Process*. This review of uncleared traffic citations revealed that the County, State, and City's enforcement efforts were inadequate. In addition, the County did not provide the City with adequate information on the amount of money it was owed. Consequently, we found that as of November 1990:

- Uncleared tickets issued within the City's boundaries totaled \$58 million; the City's share being approximately \$17 million; and
- Collection procedures were inadequate, thereby resulting in (1) lost revenues, (2) undermining justice and fairness principles, and (3) allowing unauthorized persons to drive on California streets and highways.

The report included four findings and 13 recommendations to improve collection efforts and reporting. If these recommendations had been implemented, the City Auditor estimated that the City could have collected an additional \$4.6 million in revenues. Moreover, basic justice and fairness principles could be better served and the number of unauthorized persons driving vehicles could be reduced.

## **SCOPE AND METHODOLOGY**

The purpose of this audit was to perform a follow-up review of the City Auditor's 1991 audit on the collection of traffic citations. This follow-up review had the following audit objectives:

- Determine the number and dollar value of the City of San Jose's (City) unpaid traffic citations;
- Evaluate whether the City, the Santa Clara County Municipal Court (Court), and the County of Santa Clara (County) are effectively controlling and monitoring uncleared traffic citations;
- Evaluate whether the combined Court and county-state enforcement system is effective in monitoring uncleared citations;
- Evaluate whether the City is receiving sufficient management information and statistical reports from the Court and the County to effectively monitor the traffic citations collections process;
- Evaluate whether more direct personal and coercive means of traffic citation enforcement would be more effective in clearing traffic citations;
- Evaluate the status of audit recommendations from the previous audit;
- Evaluate whether the recommendations from the previous audit are still appropriate solutions for clearing unpaid traffic citations;
- Determine whether the City's costs to issue traffic tickets significantly exceed the revenues derived from the traffic tickets;
- Determine if the County has legal authority for currently charging the City a processing fee for collections of court-ordered accounts receivable; and
- Evaluate whether the methodology the County uses to charge the City the processing fee deprives the State of its rightful share of the collections in accordance with Penal Code Section 1463.



To satisfy the audit objectives, we examined and evaluated the City's and Court's systems of internal control for collecting and monitoring traffic citations. Specifically, we observed operations, interviewed personnel, inspected relevant data, analyzed reports, and tested controls. We also used statistical sampling techniques to determine the number and dollar value of unpaid traffic citations. In March 1989, the Western Regional Office of the National Center for State Courts evaluated the Santa Clara County Municipal Court Traffic Facility and issued a report. We reviewed the report and contacted one of the authors of the study.

When we reviewed internal controls, we did not test the accuracy and completeness of the Court's processing of traffic citations. Specifically, we did not test its Minor Offender Automated Citation Processing System (MACS) because the County's Auditor-Controller routinely performs this review as a part of its audit of the municipal and justice courts. Because the City of San Jose's internal controls over the traffic citations collection process are weak, we conducted extensive compensatory testing. We did not analyze the revenue potential to the City from the impoundment of vehicles. We also did not review the Neighborhood Speed Compliance Program in this audit.

## **FINDING I**

**AVAILABLE AND PRACTICAL COLLECTION ALTERNATIVES  
FOR TRAFFIC CITATIONS COULD GENERATE  
ONE-TIME REVENUES OF \$450,000 FOR THE CITY OF SAN JOSE,  
AND INCREASE ANNUAL REVENUES ABOUT \$160,000.  
SIMILARLY, THE STATE OF CALIFORNIA, SANTA CLARA COUNTY,  
AND OTHER SANTA CLARA COUNTY CITIES COULD REALIZE  
ONE-TIME REVENUES OF ABOUT \$16 MILLION**

The March 1991 San Jose City Auditor report included a finding entitled:

- MORE DIRECT, PERSONAL, AND COERCIVE MEANS OF TRAFFIC CITATION ENFORCEMENT COULD GENERATE AN ADDITIONAL \$4,620,000 FOR THE CITY OF SAN JOSE AND REDUCE THE NUMBER OF UNAUTHORIZED DRIVERS ON CALIFORNIA STREETS

This finding included ten (10) recommendations to address the County of Santa Clara (County) failure to collect an estimated \$58 million in traffic fines issued within San Jose's city limits. Our re-review of uncleared traffic citations revealed the following:

- As of August 1995, the dollar value of unpaid traffic citations issued within San Jose's city limits was \$68.1 million, of which \$5.3 million was owed to the City of San Jose (City); and
- As of March 31, 1996, the County had implemented only five (5) of the 13 recommendations we made in our March 1991 audit report to improve the County's collection of unpaid traffic citations.

We also identified during our re-review that several governmental jurisdictions were successfully using private collection agencies to collect unpaid traffic citations. If the Santa Clara Municipal Court (Municipal Court) were to use a private collection agency to collect unpaid traffic citations, we estimate that the City could realize one-time revenues of \$450,000 while the State of California (State), the County, and other Santa Clara County cities could realize one-time revenues of \$9.6

million, \$5.6 million, and \$800,000, respectively. In addition, we estimate that the use of a private collection agency to collect traffic citations would increase the City's traffic citation revenues by \$160,000 per year. Furthermore, the use of a private collection agency would result in the City receiving significantly improved management reports regarding the collection of traffic citations. Finally, the Municipal Court should consider imposing a civil assessment for a Failure to Appear in accordance with Penal Code Section 1214.1.

### **Previous City Auditor Report**

In 1991, the City Auditor issued a report on the collection of traffic citations entitled *An Audit of The City's Traffic Citations Collection Process*. This review of uncleared traffic citations revealed that the County, State, and City's enforcement efforts were inadequate. In addition, the County did not provide the City with adequate information on the amount of money it was owed. Consequently, we found that as of November 1990:

- Uncleared tickets issued within the City's boundaries totaled \$58 million; the City's share being approximately \$17 million; and
- Collection procedures were inadequate, thereby resulting in (1) lost revenues, (2) undermining justice and fairness principles, and (3) allowing unauthorized persons to drive on California streets and highways.

### **Re-Review Of Unpaid Traffic Citations As Of August 1995**

To determine the amount of unpaid traffic citations, we performed a statistical analysis of uncleared traffic citations for the Santa Clara County Municipal Court as of August 12, 1995. The objective of this analysis was threefold: (1) determine the number of unpaid traffic citations; (2) estimate the

dollar value of the unpaid citations; and (3) estimate the City share of the unpaid traffic citations. By applying statistical sampling techniques, we estimate that approximately 200,911 traffic citations were outstanding and the total value of these citations was approximately \$68.1 million. The aging of this total as of August 12, 1995, is shown in Table I below:

**TABLE I**  
**AGING AND AMOUNT OF UNCLEARED TRAFFIC CITATIONS**  
**AS OF AUGUST 12, 1995**

<b><u>Year Of</u></b> <b><u>Issuance</u></b>	<b><u>Total Uncleared</u></b> <b><u>Citations</u></b>
1978	\$204,000
1979	- 0 -
1980	204,000
1981	340,000
1982	749,000
1983	204,000
1984	953,000
1985	1,498,000
1986	1,090,000
1987	3,337,000
1988	5,030,000
1989	5,380,000
1990	5,925,000
1991	6,130,000
1992	8,513,000
1993	6,130,000
1994	8,513,000
1995	<u>13,900,000</u>
<b>TOTAL</b>	<b><u>\$68,100,000</u></b>

Based on the statistical sample and aging of uncleared traffic citations, we estimate that approximately \$43.2 million, or 63 percent of the uncleared citations, are less than five-years old.

We also estimated the County, State, and the City share of the \$68.1 million. The total and percentage of each jurisdiction are shown in Table II below:

**TABLE II**  
**COUNTY'S, STATE'S, AND CITY'S SHARE**  
**OF UNCLEARED TRAFFIC CITATIONS**

<b>Jurisdiction</b>	<b>Total</b>	<b>Percentage</b>
State of California	\$39,626,736	58.2
Santa Clara County	23,152,754	34.0
City of San Jose	5,320,510	7.8
<b>Total</b>	<b>\$68,100,000</b>	<b>100</b>

The above unpaid citations represent bail amounts and applicable State and County Assessments. Bail is a guarantee of appearance by the defendant.

The bail set on each offense is the amount which has been determined as appropriate to guarantee appearance. If the court does not require an appearance, the defendant may choose to exercise his/her statutorily allowed option to post and forfeit the bail in lieu of a court appearance. The forfeiture constitutes a conviction which is treated the same as a plea or finding of guilty. According to the Court, any bail set on a case filed with the Court is technically not a collectible per se. The defendant is entitled to, among other things:

- a trial by judge (or Jury if a misdemeanor);
- to confront and examine witnesses;
- to have subpoenas issued to compel the attendance of witnesses on his/her behalf; and
- to a dismissal if not tried within statutory time frames.

The vast majority of cases in the above \$68.1 million are those on which the defendant has not been convicted.

#### **Status Of Previous Audit Recommendations**

The report included four findings with 13 recommendations to improve collection efforts and reporting. If these recommendations were implemented, the City Auditor estimated that the City could collect an additional \$4.6 million in revenues. Moreover, basic justice and fairness principles could be better served and the number of unauthorized persons driving vehicles could be reduced. As of March 31, 1996, of the 13 recommendations we made in our 1991 audit report, only five were implemented. The 13 recommendations and their implementation status are summarized in Appendix B.

#### **Private Collection Agencies Have Improved Collections In Other Jurisdictions**

In the 1991 audit report, the City Auditor recommended the use of private collection agencies to improve collection of unpaid traffic citations. Our re-review identified other public agencies that have increased collections through the use of private collection agencies. Furthermore, State Law, Penal Code Section 1214.1, allows the courts to impose a Civil Assessment for a Failure to Appear, thereby allowing the Court to pass on the cost of collection to offenders. Specifically, Section 1214.1 of the Penal Code states:

*(a) In addition to any other penalty in criminal cases, the court may impose a civil assessment of up to two hundred fifty (\$250) against any defendant who fails, after notice, and without good cause to appear in court for any proceeding authorized by law.*

*(b) The assessment shall not become effective until at least 10 calendar days after the court mails a warning notice to the defendant by first class mail to the address shown on the notice to appear or to the defendant's last known address. If the defendant appears within the time specified in the notice and shows good cause*

*for the failure to appear, the court shall vacate the assessment.*

*(c) If an assessment is imposed under this section, no bench warrant or warrant of arrest shall be issued with respect to the failure to appear at the proceeding for which the assessment is imposed.*

*(d) The assessment imposed under subdivision (a) shall be subject to the due process requirements governing defense and collections of civil money judgments generally.*

The principal benefit of Section 1214.1 is that it permits the use of civil judgments and the civil collection process against delinquent offenders. Conversely, the criminal sanction of arrest is not effective or practical given the demand it places on law enforcement resources and incarceration facilities in the State. Section 1214.1 also opens the door for the use of private companies to assist the courts in the specialized field of civil collections. In actual practice, the court would impose a \$250 civil assessment in lieu of issuing a warrant and/or a State Department of Motor Vehicles (DMV) hold. The collection agency would then secure payment and retain part of the \$250 as a commission with the remainder going directly to the County. According to a collection agency executive, there are twenty-four California Counties currently using Section 1214.1 to impose the \$250 civil assessment.

Our review identified two prominent firms that provide collection services for public agencies--Lockheed IMS and GC Services. Lockheed IMS is a recognized provider of services to federal, state, and local governments, as well as the private sector. Currently, Lockheed IMS provides municipal service solutions for more than 100 cities nationwide and abroad. Lockheed IMS is a subsidiary of the \$23 billion Lockheed Martin Corporation, one of the world's leading diversified high technology companies. Lockheed IMS' expertise and effectiveness is evidenced by its record of increasing parking revenues in cities

such as Boston, Philadelphia, Los Angeles, Denver, New Orleans, Milwaukee, Cleveland, Columbus, San Diego, the District of Columbia, and San Jose (See Graph I for parking revenues in seven of the above cities). Lockheed IMS has also provided full service processing to the Los Angeles Municipal Court and 25 other courts in Los Angeles County for parking tickets for over a decade.<sup>2</sup>

Graph I depicts pre- and post-Lockheed IMS fine collections in Los Angeles, Washington, D.C., Boston, Philadelphia, Denver, New Orleans, and San Jose.

#### **GRAPH I**

#### **ANNUAL PARKING FINE COLLECTIONS**

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<sup>2</sup> It should be noted that under present law, parking is not a criminal process. The amounts established in connection with parking offenses are "civil penalties," and are subject to civil procedures. They are not governed by criminal statutes, and they are not processed by the court.



During the last three years, Lockheed IMS has expanded its services to government entities by developing programs and strategies to collect traffic citations. In that regard, Lockheed IMS recently ended an 18-month pilot collections program for the Los Angeles Municipal Court that resulted in the collection of over \$9 million in traffic citations previously determined to be uncollectible.

Another nationwide private collection agency, GC Services, contracted with the North County Municipal Court in San Diego in November 1992. Under the contract GC Services began an innovative pilot project to collect on delinquent fines and forfeitures. The goals of the pilot program were threefold:

1. Validate the Justice System by ensuring that the penalties of violating the law are enforced, and court imposed fines are paid as ordered. The validity of the Justice System depends on being able to ensure that the penalties for violating the law are enforced. Prior to the implementation of this program, scofflaws seriously impacted this basic principle, as the court had limited means to ensure the payment of the fines and forfeitures imposed. Under this pilot project, all defendants who fail to pay their fines are referred to a collection agency for full-scale collection efforts.
2. Alleviate the burdensome backlog of outstanding warrants in the county. When defendants fail to pay their assessed criminal fine, or appear and/or post bail on a traffic citation, past practice was to issue warrants and DMV license holds. These warrants and holds were often disregarded, and had little effect on getting defendants to appear in court and/or to pay their fines. The result was a huge backlog of warrants.
3. Enhance the revenue generated by the court, and reduce the court's net county cost. Currently, many defendants owing fines or bail on minor offense citations have avoided payment because of the ineffective methods used for collection. Not only has this affected the public's confidence in the court's ability to enforce court-ordered fines or bail, but has also impacted the revenue to the State, County and cities.

After one year, the North County Municipal Court in San Diego issued a report assessing the pilot program which stated that it successfully achieved all three goals. Specifically, the report stated the following:

*By any measure, this pilot project has been a success, and has proven the viability of the concept of both civil assessments as a method, and private collection agencies as a means. The collection rate on delinquent accounts has nearly doubled, and the general fund revenue from these cases has increased by 2,000 percent.*

The report stated that the actual collection rate of the program is still unknown, and cannot be determined until several more months of data are collected. However, based upon similar programs in Los Angeles, the program appears to be well on its way to a collection rate above the 30 percent originally projected. This compares very favorably to the rate of collections for delinquent fines prior to the collection agency, which was around 15 percent. Furthermore, there has been a dramatic reduction in the number of warrants issued each month. Table III below shows the goals of the pilot program with actual accomplishments.

**TABLE III**  
**PILOT PROGRAM'S GOALS AND ACCOMPLISHMENTS**

<b>Category</b>	<b>July 1993 Goals</b>	<b>June 1994 Accomplishments</b>
No. of cases referred	26,000	49,725
No. of cases resolved	7,840	13,400
Total amount adjudicated	\$2,940,000	\$6,425,298
Collection rate	30%	35.9%
Net general revenue	\$1,100,000	\$1,570,000
Decrease in warrants	1,047/month	1,240/month

As Table III demonstrates, the program has exceeded expectations in all six categories.

Since the completion of the pilot program, the San Diego County Board of Supervisors has authorized the North County Municipal Court to negotiate a new contract with GC Services. Thus far, judges have been very pleased with the program as it has been successful in motivating defendants to pay their court-ordered fines and increased credibility. The program has also been replicated throughout the state. For instance, GC Services has assisted several other courts in the development of their programs, including Monterey, Santa Barbara, and Lake County.

It should be noted that according to the Santa Clara County Municipal Court the \$68.1 million of unpaid citations identified in this report are predominately unadjudicated cases and "technically" have no amount owed. That point notwithstanding according to GC Services, they have successfully collected thousands of unpaid citations that were unadjudicated cases and "technically" had no amount owed.

#### **Other Cited Benefits Of Private Collection Agencies**

The Government Finance Officer's Association (GFOA) in its November 1995 publication entitled Collecting Delinquent Revenues issued the following comments on private collection agency referrals:

*Delinquent accounts are sometimes referred to a private collection agency (or a law firm specializing in collections) when routine in-house collection efforts fail. Benefits of using a private collection agency include:*

- *Experience in collecting delinquent accounts*
- *Access to state-of-the-art computer equipment, and*
- *Reduced staffing requirements.*

GFOA also issued further comments on the benefits of using private collection agencies:

*Collection agencies can be especially useful for pursuing out-of-town debtors. . . .*

*The use of collection agencies is becoming more widespread among governments. Use of a collection agency makes sense for many governments that lack the necessary resources to pursue more aggressive collection efforts. Debtors are initially notified by the government that if they fail to pay within a certain time period, their delinquent account will be turned over to a third party for further collection efforts. . . . Many governments find that the mere threat of involving a collection agency or a letter from an attorney spurs debtors into paying their delinquent account. . . . Cost effectiveness will depend on the characteristics of each account; therefore, governments should analyze each account accordingly before turning it over to a third party.*

*For those governments that use outside collection agencies, these agencies can offer skip tracing services to locate debtors. . . . Skip tracing is an effective technique for locating debtors who have moved prior to fulfilling their debt obligations.*

#### **Estimate Of One-Time Collections And Increased Annual Revenues**

Based on the collection experience of several California counties using outside collection agencies as well as considering the age of the City's unpaid traffic citations, we calculated the additional revenues available to the State, the City, and the County. We estimated the potential one-time recoveries from traffic citations issued within the City limits of San Jose to be \$450,000. In addition, we estimate that the County and State would recover additional one-time revenues of \$16 million for those Santa Clara County traffic citations issued within Santa Clara County. We estimate the distribution of these amounts among the State, the County, all other Santa Clara County Cities and the City to be as follows:<sup>3</sup>

	<b>San Jose Citations</b>	<b>Other Santa Clara County Citations</b>	<b>Totals</b>
State	3,375,000	6,221,000	9,596,000

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<sup>3</sup> See Appendix C for our calculation of these amounts.

County	1,972,000	3,644,000	5,616,000
All Other Santa Clara Cities	--	790,000	790,000
<b>Totals</b>	<b>5,347,000</b>	<b>10,655,000</b>	<b>16,002,000</b>
San Jose	452,000	--	

Finally, it should be noted that our estimate does not include any allowance for any revenues that may be generated from Penal Code Section 1214.1. As noted on page 13, the County would retain a portion of the \$250 Civil Assessment for a Failure to Appear the court may impose. Thus, our estimate of County one-time recoveries is understated to the extent the court imposes the assessment and the collection agency collects and remits a portion of the \$250 assessment back to the County. Finally, we estimate the use of a private collection agency would increase the City's traffic citation revenues by about \$160,000 per year.<sup>4</sup>

#### **Additional Collection Agency Benefits To The County**

An additional benefit to the Court using a collection agency to collect unpaid traffic citations is that it appears the County will avoid paying hundreds of thousands of dollars per year to the State.

Specifically, Penal Code Section 1463.001 imposes the following requirement on the counties:

*In any fiscal year that a county does not remit to the General Fund an amount equal to the amount transmitted during the 1992-93 fiscal year, that county shall make a payment from county funds equal to the difference to the General Fund by October 1 of the subsequent fiscal year.*

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<sup>4</sup> See Appendix D for our calculation of these amounts.

Thus, counties have to raise as much money from traffic tickets as they did in the 1992-93 fiscal year or pay the difference to the State. For example, in 1993-94, Santa Clara County paid the State \$237,952 and Alameda County paid \$877,000 because these Counties did not make their 1992-93 quotas. For the same reason, according to Santa Clara County Municipal Accounting personnel, the County's payment to the State for 1994-95 will be \$717,000 while Alameda County will have to pay the State \$1.3 million.

In our opinion, by using a collection agency to collect unpaid traffic citations, Santa Clara County should realize sufficient additional traffic citation revenues to equal its 1992-93 remittance to the State. By so doing, the County should not have to pay the State any amount to make up the difference between its current year and its 1992-93 remittance.

Using a private collection agency to collect unpaid traffic citations would also help the County recoup reduced County traffic citation revenues and increased County costs. Specifically, according to the Santa Clara County Budget Director<sup>5</sup>:

*Like the cities, the counties fine revenues have declined significantly over the past several years. With the loss of 75% of fine revenues to the state, the county share of fines collected by the courts has declined from \$1.3 million in FY 1992 to \$600,000 in FY 1995, a decline of 54%.*

*. . . the county experience regarding the fine and penalty assessment revenue is closer to that of the city than the state. Counties are struggling to maintain adequate revenues to maintain the reduced level services currently provided. Counties are still searching for alternatives to make up for the loss of property tax revenues imposed by the state during the severe depression of the early 1990's. During a three year period, the state took over \$135 million in property tax revenue from counties. This loss of discretionary revenue has*

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<sup>5</sup> A full text of the Santa Clara County Budget Director's memorandum to the City Auditor is shown in Appendix E.

*pushed counties to the edge in maintaining service levels to meet the needs of it's residents.*

### **A Collection Agency Will Produce Management Reports**

The County does not presently produce management reports which can be used to evaluate the effectiveness of the collections process for unpaid citations. In our March 1991 audit report we made a recommendation that the City Manager request that Santa Clara County provide regular and periodic management reports that update the status of unpaid citations collection and enforcement and provide relevant data on trends and problems. On December 21, 1995, the Santa Clara County Municipal Court said the following about the current status of this recommendation:

*Request for management reports for the court and outside agencies has long been on a list of priorities the court has for maintaining and updating our traffic system (MACS). Unfortunately, due to a lack of funds and programming time, these items are not given a high priority.*

In March 1989, the Western Regional Office of the National Center for State Courts did a study of the Santa Clara County Municipal Court Traffic Facility. The report included the following comment:

*The current (MACS computerized) system appears to be unnecessarily limited in its capabilities. The current system clearly falls short of what is expected of basic traffic case processing systems. A system-wide review should be accomplished at the earliest opportunity.*

The study also stated that

*. . . an automated system should provide exception reports. The exception reports should include lists of overdue fines, license holds, outstanding warrants, as well as other desired information. In addition, an automated system should provide comprehensive but concise management and statistical reports. . . .*

The County's Minor Offender Automated Citation Processing System (MACS) is primarily being used as a transaction processing system to handle routine and recurring transactions. A transaction processing system is very useful to lower level management. However, MACS does not produce the kind of management information that is useful to upper management. MACS does not prepare reports comparing traffic citation fines imposed to those collected and does not produce management reports such as aged accounts receivable reports on a routine basis. MACS is not being used as a management information system (MIS) to gather more comprehensive data, and organize and summarize it in a form that is of value to functional managers.

The need for such information is further highlighted in The National Institute of Justice's 1984 study entitled *Fines in Sentencing: A Study of the Use of the Fine as a Criminal Sanction*. One of the conclusions in this report was that

*. . . with few exceptions, American courts do a very poor job of collecting and using management information about fine use, collection, and enforcement. Although most courts keep adequate records of individual fine amounts, very few have developed systems for aggregating and analyzing the data in these records. As a result they know very little about the number of fine sentences or the total amounts imposed, they cannot gauge the effectiveness of collection efforts, and they have no reliable way of identifying the type of cases that pose particular collection and enforcement problems or of learning what enforcement strategies work well.*

The lack of adequate management information supports the need to use licensed collection agencies to improve collection of traffic citations. For example,



licensed collection agencies can generally provide reports showing the age of the unpaid accounts. Users of these reports can:

- review collection progress on accounts by date of placement;
- analyze liquidation trends; and
- analyze the entire collection portfolio.

In addition, licensed collection agencies have the ability of "tailor making" reports to fit the specific needs of report users.

We recommend that the Santa Clara County Municipal Court develop an RFP to solicit the use of a private collection agency to collect unpaid traffic citations and consider imposing a civil assessment for a Failure to Appear in accordance with Penal Code Section 1214.1.

## **CONCLUSION**

The March 1991 San Jose City Auditor report included a finding entitled:

- MORE DIRECT, PERSONAL, AND COERCIVE MEANS OF TRAFFIC CITATION ENFORCEMENT COULD GENERATE AN ADDITIONAL \$4,620,000 FOR THE CITY OF SAN JOSE AND REDUCE THE NUMBER OF UNAUTHORIZED DRIVERS ON CALIFORNIA STREETS

This finding included ten (10) recommendations to address the County of Santa Clara (County) failure to collect an estimated \$58 million in traffic fines issued within San Jose's city limits. Our re-review of uncleared traffic citations revealed the following:

- As of August 1995, the dollar value of unpaid traffic citations issued within San Jose's city limits was \$68.1 million of which \$5.3 million was owed to the City of San Jose (City) and
- As of March 31, 1996, the County had implemented only five (5) of the 13 recommendations we made in our March 1991 audit report to improve the County's collection of unpaid traffic citations.

We also identified during our re-review that several governmental jurisdictions were successfully using private collection agencies to collect unpaid traffic citations. If the Court were to use a private collection agency to collect unpaid traffic citations, we estimate that the City would realize an additional \$450,000 and the State of California, Santa Clara County, and other Santa Clara County cities would realize an additional \$16 million. The Santa Clara County Municipal Court needs to consider imposing a civil assessment for a Failure to Appear in accordance with Penal Code Section 1214.1.

### **RECOMMENDATION**

We recommend that the Santa Clara County Municipal Court:

#### **Recommendation #1:**

Develop an RFP to solicit the use of a private collection agency to collect unpaid traffic citations and consider imposing a civil assessment for a Failure to Appear in accordance with Penal Code Section 1214.1. (Priority 1)

## **FINDING II**

**FROM 1988-89 TO 1994-95, THE CITY OF SAN JOSE'S ANNUAL REVENUE  
FROM TRAFFIC CITATIONS HAS DECLINED  
NEARLY TWO-THIRDS WHILE FROM 1990-91 TO 1994-95  
THE STATE OF CALIFORNIA'S ANNUAL REVENUE  
FROM TRAFFIC CITATIONS ISSUED  
WITHIN SANTA CLARA COUNTY HAS MORE THAN DOUBLED**

Since 1991, the California legislature has passed several laws pertaining to the distribution of traffic citation revenues among the state, California's 58 counties, and various local governments. These legislative changes have all worked to the benefit of the state and to the detriment of cities. In addition, we identified during our review that while the State of California (State) and Santa Clara County (County) collected \$965,000 and \$2.5 million, respectively, as a result of two amnesty programs, the City of San Jose (City) did not receive any of the \$250,000 to which it was otherwise entitled. Further, we identified that from 1986 to 1994 the number of San Jose Police Department (SJPd) issued traffic citations has dropped from 148,533 per year to only 64,949 per year. Finally, we identified that from July 1, 1990, to December 31, 1995, the County made \$250,000 in unauthorized charges against the City to process the City's installment payments for misdemeanor and felony offenses. As a result, from 1988-89 to 1994-95, the City's annual revenue from traffic citations has declined from \$2,251,438 to only \$764,478. Accordingly, we recommend that the City Manager continue to work with the League of California Cities to support legislation to correct the current inequitable distribution of traffic citation revenues among the state, counties, and local governments. We also recommend that the SJPd evaluate the Traffic Enforcement Unit's mission, staffing, equipment, deployment, and enforcement procedures relative to all service delivery activities including traffic citations and include the results of the evaluation as part of the Public Safety Augmentation Plan process. Finally, we recommend that the City Manager initiate the

Dispute Resolution Process contained in the December 16, 1993, agreement between the City of San Jose and Santa Clara County to ensure compliance with Penal Code Section 1463.

**The City's Revenues From Traffic Citations Have Declined Significantly**

The County, City, and State share on a predetermined basis the revenues generated from traffic citations issued within the City. Table IV shows the City's annual revenues from traffic citations for 1988-89 through 1994-95.

**TABLE IV**

**CITY REVENUES FROM TRAFFIC CITATIONS**

<b>Fiscal Year</b>	<b>Amount</b>	<b>Percentage (+)/(-) From Previous Year</b>	<b>Percentage (+)/(-) From 1988-89</b>
1988-89	\$2,251,438		
1989-90	1,816,282	-19.32	-19.32
1990-91	2,120,044	+16.72	-5.83
1991-92	1,064,279	-49.79	-52.73
1992-93	830,281	-21.99	-63.12
1993-94	762,864	-8.12	-66.12
1994-95	764,478	+0.23	-66.04

As Table IV shows, the City's revenues from traffic citations have declined significantly; 1994-95 totals are only one-third of 1988-89 totals. Furthermore, 1995-96 traffic fines revenues are again tracking below expectations. Specifically, the City's year-to-date traffic citation receipts are approximately \$90,000 (28 percent) below 1994-95 levels. Although the City's Budget Office expects

revenues to increase in the second half of 1995-96, it still anticipates that 1995-96's revenues from traffic citations will be \$50,000 below 1994-95's revenues.

While the City's revenues have declined, the State's revenues from traffic citations issued in the County have increased significantly. Table V below shows the State's revenues from traffic citations issued in the County for the last five fiscal years.

**TABLE V**

**STATE OF CALIFORNIA REVENUES FROM SANTA CLARA COUNTY  
FOR TRAFFIC CITATIONS**

<b>Fiscal Year</b>	<b>Amount</b>	<b>Percentage (+)/(-) From Previous Year</b>	<b>Percentage (+)/(-) From 1988-89</b>
1990-91	\$9,943,161		
1991-92	\$20,037,746	+102	+102
1992-93	\$22,524,900	+12	+127
1993-94	\$21,288,385	-5	+114
1994-95	\$20,069,945	-6	102

As Table V shows, the State's revenues from Santa Clara County traffic citations in 1991-92 through 1994-95 were more than twice 1990-91's revenues. Since 1990-91, Santa Clara County traffic citations have generated more than \$20 million per year for the State.

The traffic citation revenue trend in the County is similar to Statewide trends. Specifically, the State's share of revenues from traffic citations has increased dramatically while California cities' share of these revenues have declined. Table VI shows Statewide revenues from traffic citations for 1990-91 through 1994-95.

**TABLE VI**  
**STATE OF CALIFORNIA**  
**STATEWIDE REVENUES FROM TRAFFIC CITATIONS**

<b>Fiscal Year</b>	<b>Amount</b>	<b>Percentage (+)/(-) From Previous Year</b>	<b>Percentage (+)/(-) From 1988-89</b>
1990-91	\$156,647,339		
1991-92	\$334,020,727	+113	+113
1992-93	\$450,805,303	+35	+188
1993-94	\$396,819,205	-12	+153
1994-95	\$388,280,024	-2	+148

As Table VI shows, since 1990-91 the State's annual share of revenues from traffic citations issued in all counties increased by as much as 188 percent.

#### **Legislative Changes**

Since our audit in 1991, the California State Legislature (Legislature) has enacted a number of laws affecting the State's, Counties', and Municipalities' share of revenues from traffic citations. Most of these laws have increased the State's and Counties' share of revenues and decreased municipalities' share. The key legislative changes are described below.<sup>6</sup>

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<sup>6</sup> The Governor released his 1996-97 budget on January 10, 1996. According to the League of California Cities the proposed budget contains no general reduction in city revenues or direct increase in city costs. The following budget proposal with impact on cities is outlined in the Governor's proposed budget plan: Commencing in 1991-92, cities were required to send fifty percent of their fines and penalties to the state General Fund. Counties were required to send seventy-five percent of their fines and penalties to the state. This proposal would freeze the city, county and state share of fines and forfeitures at the 1994-95 level and split any increase in fines and penalties equally between cities, counties, and the state. This proposal is part of an overall realignment of trial court funding. The fiscal impact on cities cannot be determined until further details on this proposal are forthcoming.

### **Reduction In The City's Share Of Traffic Fine Revenues**

Since our 1991 audit, the Legislature changed California Penal Code Section 1463 which prescribes the distribution of traffic fine revenue between California cities and counties. For the City, Penal Code Section 1463 prescribes a prorata sharing of revenues of 87 percent to the City and 13 percent to the County. Although the formula was not changed, commencing with 1991-92, cities were required to send 50 percent of their share to the State. Thus, instead of receiving 87 percent of the revenues, the City now receives half of the 87 percent or 43.5 percent. The Legislature also required the counties to send 75 percent of their share (13 percent of the City's base fine amount) to the State and the counties were allowed to keep the remaining 25 percent.

### **Creation Of The Automated Accounting And Case-Processing Systems Fund**

In 1992, the Legislature created the Automated Accounting and Case-Processing Systems Fund (Fund) to provide a funding source for automating the courts and to train personnel. Monies collected from traffic citations support this Fund. Specifically, prior to any other distribution, two percent of all fines, penalties, and forfeitures collected are deposited into the Fund. Therefore, instead of distributing 100 percent of the fine revenues to the City and County, only 98 percent of total revenue is distributed in accordance with Penal Code Section 1463. Since it was created, the County has deposited approximately \$2.3 million into this Fund.

### **Loss Of Traffic School Revenues**

The City no longer receives any revenue when an offender chooses to attend traffic school. Vehicle Code Section 42007.1 provides that a \$24 fee is added to

the bail of an offense eligible for traffic school. Prior to July 1991, the issuing jurisdiction, such as the City, received \$8.90 of the \$24 fee and the County received the remaining \$15.10. In 1990-91, the City received approximately \$311,000 from its share of the traffic school fee. However, the State now receives all of the \$24 fee. Additionally, prior to August 5, 1991, offenders were not required to pay the bail amount. The State, however, now requires the courts to impose the normal bail amount when offenders choose to attend traffic school. Cities receive none of this revenue while the State receives 77 percent and the counties receive the remaining 23 percent.

#### **Amnesty Programs Cost The City \$250,000**

In the March 1991 audit report, the City Auditor recommended that the City Manager request that Santa Clara County evaluate the merits of an amnesty program to encourage offenders to clear their citations. Subsequent to the issuance of this audit report, two separate amnesty programs were implemented. First, the State authorized an amnesty program for the months of February, March, and April 1992. Under this program, any person owing a fine or bail due on or before April 1, 1991, that was imposed for an infraction or misdemeanor violation of the Vehicle Code,<sup>7</sup> was allowed to pay a lesser amount. That amount was either (1) 70 percent of the total fine or bail or (2) the amount of one-hundred dollars (\$100) for an infraction or misdemeanor of five-hundred dollars (\$500). Santa Clara County Municipal Court chose the 70 percent option. Accordingly, the court accepted 70 percent of the total fine or bail as full satisfaction of the delinquent fine or bail. The Penal Code in effect at this time stated that notwithstanding Penal Code

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<sup>7</sup> Except violations of Section 23103, 23104, 23152, or 23153 or parking violations.



Section 1463, the total amount of funds the courts collected pursuant to the amnesty program shall be deposited in the state treasury. According to a Santa Clara County Municipal Court official, the State received \$965,000 in Santa Clara County traffic citation revenues from this program while the City and County received nothing.

On January 13, 1993, Santa Clara County Board of Supervisors approved a resolution authorizing a County traffic amnesty program. The County began this program on February 1, 1993, and it was terminated on June 30, 1995. Vehicle Code Section 42008 stated that notwithstanding Penal Code Section 1463, the total amount of funds the counties collected pursuant to the amnesty program shall be deposited in the County treasury. According to Court accounting personnel, the County realized about \$2.5 million from this program while the City again received nothing.

In summary, from the two amnesty programs, the State and County received \$965,000 and \$2.5 million, respectively, while the City received nothing. Our analysis indicates that these two amnesty programs cost the City approximately \$250,000 in traffic citation revenues to which it would have otherwise been entitled had it not been excluded from the amnesty programs.<sup>8</sup>

#### **State Penalty Assessment Was Increased**

Effective September 30, 1992, the State increased the State penalty assessment from \$7 to \$10. Specifically, the Legislature enacted the following change:

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<sup>8</sup> See Appendix F for the calculation of this amount.

*There shall be levied a state penalty in an amount equal to ten dollars (\$10) for every ten dollars (\$10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses including all offenses, . . . involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code.*

Prior to this change, the state assessment was \$7 for every ten dollars (\$10) or fraction thereof, upon every fine, penalty, or forfeiture. Thus, the State penalty increased \$3 or 42 percent.

#### **The County Penalty Assessment Was Increased**

Similarly, the County penalty assessment was increased from \$6 to \$7 for every ten dollars (\$10) or fraction thereof, upon every fine, penalty, or forfeiture the courts imposed and collected for criminal offenses, including vehicle code violations. This \$1 increase equals a 17 percent increase in the County's penalty assessment.

#### **Reduction In Bail Amounts**

Assembly Bill 1344 (Isenberg) Chapter 696 effective September 15, 1992, amended Vehicle Code section 40310 to classify Vehicle Code offenses into four or fewer penalty categories, according to the severity of the offenses. Accordingly, the Judicial Council approved the following categories of bail/fine after considering suggestions from its Traffic Standing Advisory Committee and the recommendations from the National Center for State Courts:

<b>Category</b>	<b>Base Fine</b>	<b>Additional Penalties<sup>9</sup></b>	<b>Total</b>
1. Bicyclist and Pedestrian Offenses Parking Offenses	\$20 \$20	\$34 N/A	\$54 \$20
2. Vehicle Registration and Equipment Offenses	\$25	\$51	\$76
3. Driver's License and "Rule of the Road Offenses"	\$35	\$68	\$103
4. Miscellaneous Offenses - These penalties are specifically set by the vehicle code, and speeding offenses (Refer to Speeding Chart)	\$35	\$68	\$103

Santa Clara County Municipal Code provided us with a listing of the bail amounts for the Vehicle Code violations for 1992-93 as well as a listing of the bail amounts for the Vehicle Code violations as of November 1, 1995. When we compared the bail amounts for the Vehicle Code violations on the 1992-93 Santa Clara County bail schedule to the bail schedule as of November 1, 1995, we found that the bail amounts on the bail schedule as of November 1, 1995, were lower for 425 violations, the same for 70 violations, and higher for 132 violations. The significance of the bail amounts for the City is that its revenues are predicated on the Penal Code Section 1463 percentage (43.5 percent) being applied to the bail amount. The consequence of a reduced bail amount is that the City's percentage is applied to a reduced amount. Thus, while the penalty assessments for the State and County increased by 42 and 17 percent respectively, the bail amounts upon which the City's traffic citation revenues are based have for the most part decreased.

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<sup>9</sup> An "additional penalty" of \$17 (\$10 state penalty required by Penal Code Section 1464 and \$7 county penalty required by Government Code section 76000) shall be levied upon every \$10 or fraction thereof, of every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses.

### **Maximum Retention**

For 1991-92 only, AB544 imposed a maximum amount of the fine revenue that counties and cities could retain. The maximum amount of fines and forfeitures which a city could retain in 1991-92 was equal to 50 percent of the amount of fines and forfeitures retained in 1990-91, plus 5 percent. All monies in excess of that amount were to be deposited monthly in the State General Fund.

### **League Of California Cities Resolution**

The net effect of the above legislative changes is that for every dollar of traffic fines and penalties currently imposed, the City is entitled to receive only 14.5 cents. Because this inequity is common to all California cities, the League of California Cities (League) at its 1995 Annual Conference approved Resolution 24 relating to the reallocation of traffic fines. According to the League's February 23, 1996, Legislative Bulletin:

*This resolution (24) resolved that the League sponsor legislation to repeal provisions of AB 1544 (Chapter 189, Statutes of 1991) which allocated 50 percent of traffic fines imposed by cities to the State General Fund. The League met with various members of the Legislature involved with this issue and was advised by all to seek these amendments through state budget trailer bills related to trial court funding rather than through separate bills. For this reason, the League will be working with Members and staff of the Assembly and Senate Committees on Judiciary, Budget, and Appropriations; as well as the Administration, in seeking these changes.*

*The League has been working with Californians for Safer Streets on this issue, a recently formed coalition of concerned California cities, residents and businesses. The coalition was founded by The Honorable Paul Koretz, Mayor Pro Tempore of the City of West Hollywood, to bring together a diverse group of interested parties interested in evaluating and attempting to reform, where appropriate, California state laws relating to traffic safety and local law enforcement. The joint efforts of the League and this coalition will be directed towards securing revenue sources to allow cities to better fund traffic enforcement programs.*

It should be noted that on October 11, 1995, the City Council's Rules Committee approved a recommendation to support Resolution 24.

We recommend that the City Manager continue to work with the League of California Cities to support legislation to correct the current inequitable distribution of traffic citation revenues among the State, Counties, and local governments.

#### **Trial Court Funding Realignment And Efficiency Act Of 1991**

In 1994-95, the State reimbursed the County \$23.9 million to cover some of its costs of operating the courts. This reimbursement is the result of the Trial Court Funding Realignment and Efficiency Act of 1991. The Act's stated legislative intent was to increase State funding of the trial courts. To provide this funding, the State transferred a share of city and county non-parking fines to the State General Fund and increased the state penalty assessment by \$3. Since that time, trial court funding has been from a combination of state and county funds, various fines and forfeitures, and civil filing fees. According to the Santa Clara County Auditor Controller's Office, the County received the following amounts from the State for the 1994-95 fiscal year for the Municipal and Superior Courts:

<b>Court</b>	<b>Amount Received</b>
Santa Clara County Municipal Court	11.2 million
Santa Clara County Superior Court	12.7 million
<b>TOTAL</b>	<b><u>\$23.9 million</u></b>

Officials from the Santa Clara County Auditor Controller's Office reported that the \$23.9 million covers approximately 31 percent of the Municipal and Superior Court costs.

Beginning with the 1996-97 fiscal year, the State proposes to consolidate the costs of operation of the trial courts at the State level with the exception of facility, revenue collection, and local judicial benefit costs. This proposal would cap the county contribution to trial court costs at the 1994-95 level. The County contribution would become part of the Trial Court Trust Fund, which would support all trial court operations. Fines and penalties revenue at the 1994-95 level would also be deposited in the Trial Court Trust Fund; increases in fines and penalties above the 1994-95 level are proposed to be split equally among cities, counties, and the state in order to provide an incentive for collections. Counties would retain the revenue collection function and the appropriate level of resources to fund that function.

#### **SJPD-Issued Traffic Citations**

Our review found that the City has experienced a significant decline in the number of traffic violations (moving and non-moving violations) and traffic citations in recent years. The SJPD issued the following citations for the calendar years 1986 through 1994:

**TABLE VII**  
**SJPD TRAFFIC CITATIONS ISSUED**  
**FOR THE CALENDAR YEAR 1986 THROUGH 1994**

<b>Year</b>	<b>Number Of Moving Violations</b>	<b>Number Of Non Moving Violations</b>	<b>Total Traffic Violations</b>	<b>Total Traffic Citations</b>	<b>Percentage Change From 1986</b>
1986	132,146	80,669	212,815	148,533	
1987	107,137	70,095	177,232	122,180	-17.7
1988	100,965	79,040	180,005	116,449	-21.6
1989	83,685	75,116	158,801	102,384	-31.1
1990	85,475	70,392	155,867	102,836	-30.8
1991	76,701	51,273	127,974	95,814	-35.5
1992	70,858	58,280	129,138	95,884	-35.4
1993	58,497	48,843	107,340	78,676	-47.0
1994	57,717	34,204	91,921	64,949	-56.3

As shown in Table VII, the SJPD issued 56.3 percent fewer traffic citations in 1994 than it did in 1986. The County as a whole also experienced a reduction in traffic citation filings. Table VIII shows traffic citation filings in the County from 1985-86 through 1993-94.

**TABLE VIII**  
**TRAFFIC CITATIONS ISSUED IN SANTA CLARA COUNTY**  
**EXCLUDING THE CITY OF SAN JOSE**  
**FROM 1986 THROUGH 1994**

<b>Year</b>	<b>Number Of Traffic Citations Issued Within Santa Clara County<sup>10</sup></b>	<b>Less SJPD Citations<sup>11</sup></b>	<b>Total All Other Jurisdictions</b>	<b>Percentage Change From 1986</b>
1986	384,753	148,533	236,220	
1987	369,788	122,180	247,608	+4.8
1988	376,737	116,449	260,288	+10.2
1989	350,690	102,384	248,306	+5.1
1990	343,814	102,836	240,978	+2.0
1991	318,540	95,814	222,726	-5.7
1992	299,119	95,884	203,235	-14.0
1993	265,622	78,676	186,946	-20.9
1994	233,175	64,949	168,226	-28.8

As shown above, exclusive of San Jose, all other jurisdictions in Santa Clara County issued 28.8 percent fewer traffic citations in 1993-94 than in 1985-86. However, as shown in Table VII, during a comparable period, San Jose issued 56.3 percent fewer traffic citations. In other words, San Jose's rate of decline in issuing traffic citations is twice that of other issuing agencies in Santa Clara County.

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<sup>10</sup> Based on the County Fiscal Year from July 1 to June 30.

<sup>11</sup> San Jose's citations are calendar year.



## **Traffic Enforcement Unit**

The SJPd's Traffic Enforcement Unit (TEU) issues a majority of the City's traffic citations. The TEU, which is part of the Bureau of Field Operations, is responsible for vehicle code enforcement and accident investigation within the district of assignment. Control of vehicular and pedestrian traffic is emphasized and is accomplished through patrol work, use of radar enforcement and other specialized enforcement methods. High accident locations and causal factors are identified and targeted for selective enforcement.

The following comments on the objectives of the TEU were made in the TEU's Program Management Reports:

*The role of the TEU has continually evolved and changed. The TEU is dedicating large numbers of hours to special events (parades, festivals, civil disturbances), to community traffic safety education and seminars, and to the training of new personnel within the unit. The purpose of the Traffic Enforcement Unit (TEU) is to reduce traffic accidents and injuries, and to facilitate the safe and expeditious flow of vehicular and pedestrian traffic through the public's voluntary compliance with traffic regulations. Objectives will be met through a combination of education, traffic engineering referrals and enforcement. A stronger emphasis has been placed upon working closer with Streets and Traffic to develop a comprehensive traffic/pedestrian safety plan.*

Even though traffic citations are down, the TEU stated in its management report for July 1, 1995, to October 31, 1995, that ". . . the total number of traffic accidents in the City is down. This includes property damage, injury and fatal accidents. This downward cycle is a continuing trend that has been charted over the past six years. . . ."

According to the TEU, the number of traffic citations issued has decreased because:

- The non-TEU units in the SJPD have significantly reduced the number of citations they issue;
- The TEU has operated with eight vacancies for the past year;
- The number of special events and festivals/parades requiring TEU staffing have more than doubled and some events have tripled in size. In 1994-95, the TEU greatly exceeded its target of spending 2,000 hours on special events. When the officers are working these events, they are not issuing traffic citations;
- Community Policing meetings, presentations to schools, neighborhoods and business associations and other appearances have exceeded the TEU's targeted hours by 250 percent;
- The TEU has deployed staff to monitor demonstrations such as Rodney King I & II and Operation Rescue. In addition, TEU monitored large crowds attending World Cup Soccer and Arena and Convention Center events. When the officers are ensuring the smooth movement of both pedestrian and vehicular traffic at these events, they are not issuing traffic citations;
- SJPD's Memorandum of Understanding with the Police Officers' Association imposed a five-year rotation requirement on TEU motor tours and three years on radar cars. The TEU uses five officers and one sergeant to train replacements caused by this rotation requirement. Each training cycle is seven weeks long. While conducting these training sessions, the training staff can be absent from 15-30 weeks out of the year. The absence from the enforcement teams means fewer citations are being written. The yearly target for training hours is 2,500 hours; however, as of February 28, 1995, the actual training hours were 4,625, or 185 percent of the yearly target with four months left in the year;

- SJPd received grants for equipment. These grants required the TEU to make demonstrations and presentations;
- Service demands for the TEU are increasing. The Youth Services Detail was recently transferred to TEU;
- TEU sworn officers are doing additional clerical work because of the loss of a clerical position; and
- The TEU changed its objectives and some of the measurement data used to evaluate the success of the Unit. Specifically, the TEU reduced its standard for moving violations issued per year from 49,000 to 40,000 citations.

#### **Cost Of The TEU**

The cost of the TEU is significantly more than the revenues derived from the citations it issues. As of October 1, 1995, the TEU's staffing was as follows:

<b>Classification</b>	<b>Authorized Positions</b>	<b>Filled Positions</b>
Lieutenant	1	1
Sergeant	8	8
Officer	47	39
<b>Total</b>	<b>56</b>	<b>48</b>

The TEU currently has 4 solo motor, 2 radar and 2 Youth Services Detail vacancies.

As part of our review, we compared the costs of the TEU with the actual revenues collected. In 1994-95, the cost of the TEU was \$4.3 million and the City received revenues from traffic citations totaling \$764,000. Of this amount, the California Highway Patrol generated \$134,000 or about 17.6 percent.

Most of the TEU's costs are personnel costs: salaries, overtime, retirement contributions, and other fringe benefits. Thus, the TEU has a significant amount of fixed costs that do not change with a change in activity level. These costs are often further divided into committed costs and discretionary costs. Committed fixed costs are those costs necessary to have the capacity to provide services. They include such costs as equipment, facilities, and salaries. Once an operation is up and running, management has little short-run control over the level of spending for committed costs. Thus, any revenues the TEU generates from the traffic citations assist in the recovery of these committed costs.

Given the decline in traffic citations, the Police Department should evaluate the Traffic Enforcement Unit's mission, staffing, equipment, deployment, and enforcement procedures relative to all service activities including traffic citations. When completed, this evaluation should be included in the Public Safety Augmentation Plan Process. This process involves the City Manager's Office, Public Safety and support departments. The objective of the Public Safety Augmentation Plan process is to develop a long range plan (five years) which identifies staffing (sworn and non-sworn), equipment, and facility needs in the Police, Fire, Parks, Recreation, and Neighborhood Services, and Conventions, Arts and Entertainment departments. A Council of the Whole meeting is scheduled for May 13, 1996, to discuss the Public Safety Augmentation Plan.

In our opinion, including the results of the TEU's evaluation in the Public Safety Augmentation Plan process provides several benefits to the City Council. It would provide the Council an opportunity to consider the appropriate mission of the TEU and would also allow the Council to consider the TEU's resource needs along with other competing public safety needs.

We recommend that the SJPD evaluate the Traffic Enforcement Unit's mission, staffing, equipment, deployment, and enforcement procedures relative to all service delivery activities including traffic citations and include the results of the evaluation as part of the Public Safety Augmentation Plan process.

#### **County Administrative Charges**

Santa Clara County's Department of Revenue collects court-ordered accounts receivable for cities within the County. Court-ordered accounts receivable are primarily installment payments for misdemeanor and felony offenses such as Driving Under the Influence, Reckless Driving, and Driving with a Suspended License. From July 1983, to June 1990, the County and the City had a written contract which addressed the distribution of revenues from court-ordered accounts receivable and allowed the County to recover some of its collection costs.

In 1990, the City, dissatisfied with the terms of the contract, allowed it to lapse and began negotiating a new contract with the County. The City and County, however, were unable to agree on a new contract. Nonetheless, the County continued to charge off its collection costs to the City as well as to the State. For instance, since July 1990, the County has charged off approximately \$498,000 on court-ordered accounts receivable for offenses occurring within the City. Of that \$498,000, the County charged about \$250,000 against the City. Without a written agreement between the City and County, the County is required to make payments

to the City in accordance with Penal Code Section 1463.<sup>12</sup> As a result, since 1990, the County has made about \$250,000 in unauthorized charges against the City to process the City's installment payments. Further, it should be noted, that while the County was charging the City for the processing of its installment payments, the County was also charging defendants a \$35 administrative fee for processing installment accounts. According to Penal Code Section 1205:

*The defendant shall pay to the clerk of the court or the collecting agency a fee for the processing of installment accounts. This fee shall equal the administrative and clerical costs, as determined by the board of supervisors, except that the fee shall not exceed thirty-five dollars (\$35).*

On December 16, 1993, the Redevelopment Agency (Agency) of the City of San Jose, the County, and the City executed an agreement to settle all outstanding claims regarding numerous lawsuits. The City, County, and Redevelopment Agency agreed to the following provision relevant to our audit:

**Dispute Resolution Process.** *In an attempt to avoid future litigation on any matter and to develop a cooperative working relationship, the parties agree that the following steps should be taken:*

- A. Quarterly meetings among the City manager, the Agency Executive Director and the County Executive.*
- B. When disputes between City/Agency and County arise, if there is no resolution after two staff level meetings, the County Executive should meet with the City Manager and/or Executive Director. If there is no resolution after two executive level meetings, the Mayor/Agency Chair should meet with the chair of the County Board of Supervisors.*
- C. When disputes involving legal issues arise between City/Agency and County, the County Counsel should meet with the City Attorney/Agency General Counsel. The County Counsel and City Attorney/General Counsel shall meet prior to the filing of any lawsuit.*

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<sup>12</sup> See Page 27 of this report for a description of the revenue distributions between the City and the County according to California Penal Code Section 1463.

We recommend that the City Manager initiate the Dispute Resolution Process contained in the December 16, 1993, agreement between the City of San Jose and Santa Clara County to ensure compliance with Penal Code Section 1463.

## **CONCLUSION**

Since 1991, the California legislature has passed several laws pertaining to the distribution of traffic citation revenues among the State of California (State), California's 58 counties, and various local governments. These legislative changes have all worked to the benefit of the State and to the detriment of cities. In addition, we identified during our review that the State and Santa Clara County (County) collected \$965,000 and \$2.5 million as a result of two amnesty programs while the City of San Jose (City) did not receive any of the \$250,000 to which it was otherwise entitled. Further, we identified that from 1986 to 1994 the number of San Jose Police Department (SJPd) issued traffic citations has dropped from 148,533 per year to 64,949 per year. Finally, we identified that from July 1, 1990, to June 30, 1995, the County made \$250,000 in unauthorized charges to process the City's installment payments for court-ordered accounts receivable. As a result, from 1988-89 to 1994-95, the City's annual revenue from traffic citations has declined from \$2,251,438 to only \$764,478. Accordingly, we recommend that the City Manager continue to work with the League of California Cities to support legislation to correct the current inequitable distribution of traffic citation revenues among the State, counties, and local governments. We also recommend that the SJPd evaluate the Traffic Enforcement Unit's mission, staffing, equipment, deployment, and enforcement procedures relative to all service delivery activities including traffic citations and include the results of the evaluation as part of the Public Safety Augmentation Plan process. Finally, we

recommend that the City Manager initiate the Dispute Resolution Process contained in the December 16, 1993, agreement between the City and the County to ensure compliance with Penal Code Section 1463.

## **RECOMMENDATIONS**

We recommend that the City Manager:

### **Recommendation #2:**

Continue to work with the League of California Cities to support legislation to correct the current inequitable distribution of traffic citation revenues among the State, counties, and local governments. (Priority 1)

### **Recommendation #3:**

Initiate the Dispute Resolution Process contained in the December 16, 1993, agreement between the City of San Jose and Santa Clara County to ensure compliance with Penal Code Section 1463. (Priority 1)

Finally, we recommend that the San Jose Police Department:

### **Recommendation #4:**

Evaluate the Traffic Enforcement Unit's mission, staffing, equipment, deployment, and enforcement procedures relative to all service delivery activities including traffic citations and include the results of the evaluation as part of the Public Safety Augmentation Plan process. (Priority 2)



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**Administrator's Response**

**Appendix A**

**Appendix B**

**Appendix C**

**Appendix D**

**Appendix E**

**Appendix F**